

Ordinance No. 17-15

AN ORDINANCE APPROPRIATING A SUPPLEMENTAL \$15,000,000 FOR THE PLANNING, DESIGN, ACQUISITION AND CONSTRUCTION FOR A PORTION OF THE FORCE MAIN AND INTER-MUNICIPAL PUMP STATION IN CONNECTION WITH THE MATTABASSETT REGIONALIZATION PROJECT AND AUTHORIZING THE ISSUE OF \$15,000,000 BONDS AND OBLIGATIONS OF THE CITY TO MEET SAID APPROPRIATION AND PENDING THE ISSUANCE THEREOF THE MAKING OF TEMPORARY BORROWINGS FOR SUCH PURPOSE

WHEREAS, on August 6, 2012, the Common Council of the City of Middletown, Connecticut (the “City”) approved a Bond Ordinance entitled: “An Ordinance Appropriating \$37,000,000 for the Planning, Design, Acquisition and Construction of a Force Main and Inter-Municipal Pump Station in Connection with the Mattabassett Regionalization Project and Authorizing the Issue of \$37,000,000 Bonds and Obligations of the City to Meet said Appropriation and Pending the Issuance Thereof the Making of Temporary Borrowings for such Purpose” (the “Original Bond Ordinance”);

WHEREAS, on August 6, 2012, the Common Council of the City of Middletown, Connecticut, in accordance with State law and as required by the City’s Charter, approved a Resolution providing for a city-wide Referendum with respect to the approval of the Original Bond Ordinance;

WHEREAS, at the Referendum held on November 6, 2012, the voters of the City approved the Original Bond Ordinance;

WHEREAS, on April 7, 2014, pursuant to Connecticut General Statutes Section 7-263a, the Common Council authorized an additional \$3,000,000 in bonds, notes and other obligations to fund excess costs of the Mattabassett Regionalization Project;

WHEREAS, based on recent estimates provided by the City’s engineering consultants, the overall cost of the Mattabassett Regionalization Project is currently anticipated to be approximately \$55,000,000 (\$15,000,000 more than the \$40,000,000 previously approved for the Project).

NOW THEREFORE, THE COMMON COUNCIL OF THE CITY OF MIDDLETOWN, CONNECTICUT APPROVES THE FOLLOWING:

Section 1. A supplemental \$15,000,000 is appropriated for the planning, design, acquisition and construction for a portion of the force main, and an inter-municipal pump station to pump sewerage from the City of Middletown to the Mattabassett District Facility, located in Cromwell, Connecticut (the Mattabassett Regionalization Project), and allowing for related relocation of other utilities, railroad appurtenances, CTDOT appurtenances/signs/structures, and related water main and road surface relocation and improvements in connection with said Mattabassett Regionalization Project, consisting of:

- (i) regionalization of the City of Middletown Sewerage Treatment Plant with the Mattabassett District, as approved in a document more formally called the “City of Middletown Sewer Facility Plan, dated December 31, 2003”, as subsequently approved by the Department of Energy and Environmental Protection on May 15, 2006 (the “Plan”), and related gravity sewers, force main sewers, pumps stations, pretreatment, structural appurtenances, easements and rights of way as may be necessary, survey, geotechnical investigations, structural analysis and design, hydraulic analysis, sewer system SCADA development and implementation, and design, permitting and environmental investigations, bidding, bid analysis, contract and construction administration, construction, and creation of all operations manuals;
- (ii) gravity and force sewer main design, engineering, relocation, replacement, improvements and repairs, demolition of the existing sewer plant, and constructive reuse, related to or performed in conjunction with the Plan;
- (iii) road surface relocation and improvements to various roads in connection with the Plan, including road resurfacing, obtaining easements and rights-of-way, engineering, relocation, reconstruction, paving, drainage, grading, monumentation, curbing, sidewalk reconstructions and extensions, and general bituminous pavement;
- (iv) all engineering, design, investigation, construction inspection, contract administration, administrative, printing, legal and financing costs related thereto (collectively, the “Project”).

Said appropriation shall be inclusive of state and federal grants in aid thereof.

Section 2. The expected useful life of the Project is thirty (30) years. The total estimated cost of the Project is \$55,000,000, approximately twenty percent (20%) of the qualifying costs are expected to be paid from State Clean Water Fund grants, and eighty percent (80%) of such costs are expected to be paid from 20-year Clean Water Fund loans bearing interest at two percent (2%), and any remaining non-qualifying costs are to be paid from City bond or note obligations.

Section 3. To meet said supplemental appropriation of \$15,000,000 for the Project, the Common Council hereby authorizes and approves the sale, issuance, rollover and/or reissuance by the City from time to time of (i) project loan obligations, interim funding obligations or other obligations (collectively, the “CWF Obligations”) as described herein meeting the conditions prescribed in Sections 22a-475 to 22a-483, inclusive, of the Connecticut General Statutes (the “Clean Water Fund Statutes”), (ii) bonds of the City as described herein, or (iii) any combination of CWF Obligations or bonds described in (i) and (ii) above, provided, in all cases, that the total, aggregate principal amount thereof outstanding hereunder at any time shall not exceed \$15,000,000. The aggregate amount of CWF Obligations and bonds shall be issued in an amount necessary to meet the City’s share of Project costs determined after considering the estimated amounts of grants in aid of the Project.

- (a) Any CWF Obligations shall be issued pursuant and subject to the Clean Water Fund Statutes. To meet any portion of the costs of the Project determined to be

eligible for funding under said Clean Water Fund Statutes, the City may issue its project loan obligations to the State and may issue interim funding obligations in anticipation of such project loan obligations in such denominations as may be appropriate. Any such interim funding obligations may be renewed from time to time by the issuance of other notes, provided the final maturity of such notes do not exceed the maximum period permitted under Section 22a-479 of the Connecticut General Statutes. The CWF Obligations may be secured as to both principal and interest by a pledge of revenues to be derived from sewerage system use and/or connection charges or benefit assessments or both. The CWF Obligations may also be secured by the full faith and credit of the City. The Mayor of the City is authorized to sign such CWF Obligations by his manual or facsimile signature. The CWF Obligations shall bear the seal of the City or a facsimile of the seal.

- (b) Any bonds issued shall mature not later than the twentieth (20th) year after their date, or such later date as may be allowed by law. The bonds may be issued in one or more series as shall be determined by the Mayor and the City Treasurer, and the amount of bonds of each series to be issued shall be fixed by the Mayor and the City Treasurer. The bonds shall be issued in an amount necessary to provide funds sufficient with other funds available for such purpose to pay the principal of and the interest on all temporary borrowings in anticipation of the receipt of the proceeds of said bonds outstanding at the time of the issuance thereof, and to pay for the administrative, printing and legal costs of issuing the bonds. The bonds shall be in the denomination of \$1,000 or a whole multiple thereof, or, be combined with other bonds of the City and such combined issue shall be in the denomination per aggregate maturity of \$1,000 or a whole multiple thereof, be issued in bearer form or in fully registered form, be executed in the name and on behalf of the City by the manual or facsimile signatures of the Mayor and the City Treasurer, bear the City seal or a facsimile thereof, be certified by a bank or trust company designated by the Mayor and the City Treasurer, which bank or trust company may be designated the registrar and transfer agent, be payable at a bank or trust company designated by the Mayor and the City Treasurer, and be approved as to their legality by Bond Counsel. The bonds shall bear such rate or rates of interest (whether fixed or floating) as shall be determined by the Mayor and the City Treasurer. The bonds shall be general obligations of the City and each of the bonds shall recite that every requirement of law relating to its issue has been duly complied with, that such bond is within every debt and other limit prescribed by law, and that the full faith and credit of the City are pledged to the payment of the principal thereof and the interest thereon and paid from property taxation to the extent not paid from other funds available for the payment thereof. The aggregate principal amount of the bonds of each series, the annual installments of principal, maturity dates, prices, redemption provisions, if any, time of issue and sale, and other terms, details and particulars of such bonds, including the terms of any reserve that might be established as authorized herein, shall be determined by the Mayor and the City

Treasurer in the best interests of the City and in accordance with the requirements of the General Statutes of Connecticut, as amended.

Section 4. Any bonds shall be sold by the Mayor and City Treasurer in a competitive offering or by negotiation, in their discretion. If sold at competitive offering, the bonds shall be at not less than par and accrued interest on the basis of the lowest net or true interest cost to the City, or comparable method. If the bonds are sold by negotiation, the purchase contract shall be approved by the Mayor and City Treasurer.

Section 5. The Mayor and the City Treasurer are authorized to make temporary borrowings in anticipation of the receipt of the proceeds of any series of said bonds. Notes evidencing such borrowings shall be signed by the manual or facsimile signatures of the Mayor and the City Treasurer, have the seal of the City or a facsimile thereof affixed, be payable at a bank or trust company designated by the Mayor and the City Treasurer, be certified by a bank or trust company designated by the Mayor and the City Treasurer pursuant to the General Statutes of Connecticut, as amended, and be approved as to their legality by Bond Counsel. The notes shall be issued with maturity dates which comply with the provisions of the General Statutes governing the issuance of such notes, as the same may be amended from time to time. The notes shall be general obligations of the City and each of the notes shall recite that every requirement of law relating to its issue has been duly complied with, that such note is within every debt and other limit prescribed by law, and that the full faith and credit of the City are pledged to the payment of the principal thereof and the interest thereon. The net interest cost on such notes, including renewals thereof, and the expense of preparing, issuing and marketing them, to the extent paid from the proceeds of such renewals or said bonds, shall be included as a cost of the Project. Upon the sale of said bonds the proceeds thereof, to the extent required, shall be applied forthwith to the payment of the principal of and the interest on any such temporary borrowings then outstanding or shall be deposited with a bank or trust company in trust for such purpose.

Section 6. In connection with the issuance of any bonds or notes authorized herein, the City may exercise any power delegated to municipalities pursuant to Section 7-370b, as may be approved and executed by the Mayor and the City Treasurer, including the authority to enter into agreements moderating interest rate fluctuation, provided any such agreement or exercise of such authority shall be specifically approved by the Common Council.

Section 7. With respect to the receipt of original issuance premium or bid premium upon the sale of the bonds or notes herein authorized, the Mayor and City Treasurer are authorized, but not required, to apply original issuance premium and bid premium, if applicable, to fund future debt service payments on such bonds or notes or to fund any purpose for which bonds of the City are authorized to be issued, and such application shall reduce the amount of authorized and unissued bonds of the purpose to which the premium was applied, in the amount so applied.

Section 8. In order to meet the capital cash flow expenditure needs of the City, the Director of Finance, with notice to and advice from the Mayor and the City Treasurer, is authorized to allocate and reallocate expenditures incurred for the Project to any bonds or notes of the City outstanding as of the date of such allocation, and the bonds or notes to which such expenditures have been allocated shall be deemed to have been issued for such purpose, including the bonds and notes and Project herein authorized.

Section 9. The issue of the bonds aforesaid and of all other bonds or notes of the City heretofore authorized but not yet issued, as of the effective date of this Ordinance, would not cause the indebtedness of the City to exceed any debt limit calculated in accordance with law as shown by the "Debt Statement" attached hereto.

Section 10. The Mayor is hereby authorized to spend a sum not to exceed the aforesaid aggregate appropriation for the Project for the purposes set forth herein, and the Mayor is specifically authorized to make, execute and deliver any contract or contracts, and any other documents necessary or convenient to complete the improvements authorized herein and the financing thereof, including, but not limited to, any Clean Water Fund project funding agreements between the City and the State of Connecticut substantially in such form as may be required by the State.

Section 11. The Mayor, the City Treasurer, the Director of Finance and any other proper City official are each hereby authorized to apply for and accept any available State or Federal grant in aid of the financing of the Project, and to take all action necessary or proper in connection therewith.

Section 12. The City hereby expresses its official intent pursuant to 1.150-2 of the Federal Income Tax Regulations, Title 26 (the "Regulations"), to reimburse expenditures paid 60 days prior to and after the date of passage of this ordinance in the maximum amount and for the Project with the proceeds of bonds, notes, or other obligations authorized to be issued by the City. Such obligations shall be issued to reimburse such expenditures not later than 18 months after the later of the date of the expenditure or the substantial completion of the Project, or such later date as the Regulations may authorize. The City hereby certifies that the intention to reimburse as expressed herein is based upon its reasonable expectations as of this date. The Director of Finance or his designee is authorized to pay project expenses in accordance herewith pending the issuance of any such reimbursement obligations, and to amend this declaration.

Section 13. The Director of Finance is hereby authorized to exercise all powers conferred by Section 3-20e of the general statutes with respect to secondary market disclosure and to provide annual information and notices of material events as enumerated in Securities and Exchange Commission Exchange Act Rule 15c2-12, as amended, as may be necessary, appropriate or desirable to effect the sale of the bonds and notes authorized by this ordinance.

Section 14. This ordinance shall take effect when the same shall have been approved by a majority of those voting thereon at a referendum called and warned for such purpose. The date and other particulars of such referendum shall be determined by resolution of the Common Council. In the event that this ordinance shall not be approved at such referendum, it shall be null and void and of no effect.

Status: APPROVED
by Common Council, City of Middletown
at its meeting held on:AUGUST 24, 2015